

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JANUARY 09, 2019**

CALL TO ORDER <i>6:00 pm</i>	A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at South Campus Building, 40 11 th Street W, Ste. 200, Kalispell, Montana. Board members present were Jeff Larsen, Greg Stevens, Sandra Nogal, Dean Sirucek, Ron Schlegel, Kevin Lake, Elliot Adams, and James Thompson. Mike Horn had an unexcused absence. Mark Mussman, Kari Nielsen, and Donna Valade represented the Flathead County Planning & Zoning Office. There were 10 members of the public in attendance.
APPROVAL OF MEETING MINUTES <i>6:00 pm</i>	Nogal made a motion, seconded by Sirucek, to approve the December 12, 2018 meeting minutes. Motion carried by roll call.
ELECTION OF OFFICERS (CHAIRMAN) <i>6:01 pm</i>	Schlegel motioned, seconded by Lake, to nominate Jeff Larsen as the Chairman of the Flathead County Planning Board.
BOARD DISCUSSION <i>6:01 pm</i>	None
ROLL CALL <i>6:01 pm</i>	Motion passed unanimously on a roll call vote.
ELECTION OF OFFICERS (VICE-CHAIRMAN) <i>6:02 pm</i>	Schlegel motioned, seconded by Nogal, to nominate Greg Stevens as the Vice-Chairman of the Flathead County Planning Board.
BOARD DISCUSSION <i>6:02 pm</i>	None
ROLL CALL <i>6:02 pm</i>	Motion passed unanimously on a roll call vote.

**PUBLIC
COMMENT**
*(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:02 pm*

None

**BOARD
DISCLOSURE OF
CONFLICTS OF
INTEREST**
6:03 pm

None

**HIDDEN BUCK
MEADOWS
(FPP-18-10)**
6:03 pm

A request from Evergreen Business Center, Inc. with technical assistance from APEC Engineering, Inc. for preliminary plat approval of Hidden Buck Meadows, a proposal to create three (3) commercial lots and fifteen (15) residential lots on approximately 7.18 acres. The proposed subdivision would be served by Evergreen Water and Sewer District and access would be from Highway 2. The property is located within the Evergreen Zoning District immediately south of West Evergreen School.

STAFF REPORT
6:03 pm

Valade reviewed staff report FPP-18-10 for the board.

**BOARD
QUESTIONS**
6:08 pm

Larsen wondered why a variance had been requested. He thought it was at the Commissioners' discretion whether it was needed. Valade said it was not needed at this time but the applicant decided to go through with it anyways.

Larsen pointed out a technical error in the staff report that needed to be corrected.

**APPLICANT
PRESENTATION**
6:09 pm

Marc Leichti with APEC Engineering, 111 Legend Trl, was representing the applicant. He said they were generally in agreement with the staff report. Their only concern was the suggestion of the turn lanes on Hwy 2 but would be addressed by the road department during the approach permit.

**BOARD
QUESTIONS**
6:11 pm

Sirucek said it was his suggestion and explained his reasoning and concern for traffic safety and access issues. He hoped it would be a suggestion that they would take a hard look at. He said it wasn't required but it made sense.

Leichti pointed out that if they conditioned to do the two lane access, MDT

may say they did not want that specific type of approach, and then they would have to come back to the board. He wanted to leave it up to MDT to decide.

**AGENCY
COMMENTS**
6:14 pm

None were present to comment. Larsen acknowledged the written comment that had been reviewed in the staff report.

**PUBLIC
COMMENT**
6:14 pm

None

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-18-10)**
6:15 pm

Sirucek made a motion, seconded by Schlegel, to adopt staff report FPP-18-10 as findings of fact.

**BOARD
DISCUSSION**
6:15 pm

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-18-10)**
6:15 pm

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FPP-18-10)**
6:16 pm

Lake made a motion, seconded by Nogal, to recommend approval of FPP-18-10 to the County Commissioners.

**BOARD
DISCUSSION**
6:16 pm

The board discussed condition #22 and whether or not it should be included as a condition or if they should leave the access up to MDT to assess whether it was needed during the approach process. They saw the need for it, and were concerned, but didn't want to complicate the process.

**MOTION TO
STRIKE
CONDITION #22**
6:18 pm

Stevens motion, seconded by Nogal, to strike condition #22.

**BOARD
DISCUSSION**

None

6:18 pm

**ROLL CALL TO
STRIKE
CONDITION #22**

6:18 pm

Motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION**

6:19 pm

Larsen mentioned he thought the two lane approach was a good idea but he didn't want to get in the way of MDT's design.

Stevens asked that the staff mention the discussion that they had to The Commissioner's when they present the application so they could do something with it if they wanted to. He felt that MDT would ultimately be the one who was responsible for the approach.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-18-10)**

6:18 pm

The motion passed unanimously on a roll call vote.

**REDTAIL RIDGE
(FPP-18-11)**

6:20 pm

A request from Sands Surveying, Inc. on behalf of David & Ruth Fretz for preliminary plat approval of Redtail Ridge, a proposal to create four (4) light industrial/commercial lots on 24.24 acres. The proposed subdivision would be served by individual wells and septic systems and access would be from an interior subdivision road. The property is located at 3945 and 3947 Highway 93 North, near the Flathead County landfill, within the Highway 93 North Zoning District.

STAFF REPORT

6:21 pm

Nielsen reviewed staff report FPP-18-11 for the board.

**BOARD
QUESTIONS**

6:23 pm

Larsen questioned if a zoning map amendment generally happened prior to a subdivision review. Nielsen said it could happen either way but they would have to have the final resolution in place before it went to final plat.

Sirucek wondered if Nielsen had completed a spot zoning analysis. Nielsen said it was to be reviewed under the zone change application the next month. Sirucek requested it be addressed in a general way because it did affect the way they looked at the subdivision. Nielsen said it did not meet the spot zoning definitions. She compared it to a previous file that had been seen last year that was very similar.

Sirucek asked specifically if staff disagreed with the written comment from City of Whitefish. She said that she did not feel like it pertained to this

application and it was not spot zoning.

**APPLICANT
PRESENTATION**
6:26 pm

Eric Mulcahy with Sands Surveying, 2 Village Loops, represented the applicants. He reviewed the application. He explained that they did not have any intent of further subdividing. He discussed the neighboring land uses and zoning and expressed that he did not think it was spot zoning and it did not fit the spot zoning criteria. He said the area wasn't really residential but low impact industrial and fell in line with the growth policy.

**BOARD
QUESTIONS**
6:29 pm

Stevens questioned what was going on with the property off of Church Drive. Mulcahy said that he believed a development had been planned but had since expired, however, the zoning was still in place.

**AGENCY
COMMENTS**
6:31 pm

None were present to comment. Larsen reviewed the written comments received.

**PUBLIC
COMMENT**
6:31 pm

None

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-18-11)**
6:32 pm

Sirucek made a motion, seconded by Schlegel, to adopt staff report FPP-18-11 as findings of fact.

**BOARD
DISCUSSION**
6:32 pm

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-18-11)**
6:32 pm

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FPP-18-11)**
6:33 pm

Lake made a motion, seconded by Sirucek, to recommend approval of FPP-18-11 to the County Commissioners.

**BOARD
DISCUSSION**

Schlegel noted that there were industrial properties all around that area as well as being near the dump. He felt it was a good fit for the property.

6:33 pm

Larsen addressed the letter from City of Whitefish that opposed the proposal. He reviewed what had been discussed with the staff and heard the engineer, which was that it not fall in to spot zoning. He also addressed the concern raised about strip development but Larsen saw that it was compatible with what was already out there. He asked Mulcahy what he thought.

Mulcahy felt the letter was thoughtfully written but felt the property was not within the growth policy boundaries of either City of Whitefish or City of Kalispell and was strictly within the county's growth policy jurisdiction. He also discussed strip development and said that this area was an unusual situation being that the landfill was nearby.

Sirucek felt that spot zoning did not apply. He also discussed the view from the highway and said it changed drastically in that area and did not feel that it was as relevant.

Stevens addressed the letter as well and said that it was not that far away from city services. He discussed the fact that the City of Whitefish wanted to have a comprehensive highway corridor but questioned if they would just sit on the plans. He felt like it fit with what was going on in that area and was a low impact use for the property.

Adams felt that developing 4 light industrial lots on 20 acres, across from the landfill, did not seem like strip development nor would it dominate the rural landscape.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-18-11)
6:45 pm**

The motion passed unanimously on a roll call vote.

**TEXT
AMMENDMENTS
(FLLSTA-18-01)
6:45 pm**

A request by the Planning and Zoning Office for a revision to the text of the Flathead County Lake and Lakeshore Protection regulations. The revision would change Section 4.3(A)(2)(a)(6) to include boat slips on both sides of a dock.

**STAFF REPORT
6:46 pm**

Mussman reviewed staff report FLLSTA-18-01 for the board.

**BOARD
QUESTIONS**

Schlegel asked for clarification as to what the riparian boundary area was. Mussman said it was the property line, extended out into the lake. Schlegel

6:52 pm

pointed out that it was not an area but a boundary. Sirucek clarified that it was the land boundary that went in to the water. Schlegel wanted to point out that it was a bad definition.

Stevens wondered what would happen if a guy, who had an existing dock, wanted to put a couple of wings out on it. Mussman said if it met the regulations it would be able to be permitted and discussed that process in detail. Stevens felt it problematic to have docks close to boundary lines because boats would be bumping in to things. Mussman pointed out that there were setback requirements. He felt the real issue was the inexperience of many boat drivers.

Adams asked for clarification on if they were discussing primarily private docks. He felt property owners should be able to park wherever they wanted.

Mussman expressed it would alleviate many violations that came across the office and explained it was difficult to enforce when it was obvious that other people on the lake were mooring on both sides as well. The code enforcement department was complaint based as directed (with the exception of a floodplain violation) by The Commissioners.

Stevens discussed his concern about boats being moored on both sides and the chaos it could bring during bad weather. He said it was one thing if it was just temporary.

Schlegel clarified that they were not changing dock configurations or dock rules, just whether or not they could moor boats on both sides of the dock.

Mussman said that was correct. Permits still needed to be issued for docks. They had to meet impervious setbacks. This text amendment would *only* allow mooring on both sides of the dock. Nothing else would change.

Stevens asked if the department owned a boat. Mussman replied they did, along with the Parks and Recreation Department, because there were some sites they could only get to by boat.

Adams said he was failing to see the logic behind only allowing someone to park on one side of the dock. Mussman said that if it was approved, that would no longer be the case. Adams questioned what would be next, [regulating] what side of the driveway someone could park on? He said that dock was private property and people should be able to park their boat how they want. If their boat was damaged then it would be their fault.

Mussman said that, when pressed, it was hard to say why that regulation had been in place.

**PUBLIC
COMMENT**
7:10 pm

Sally Holland, 5695 Highway 93 South, spoke in favor of the text amendment. She identified her property as the one that had been given as an example of neighbors going after them when other people had been doing the same. She said one mile away from her dock, there were seven other docks that were using both sides of their dock. She was told that the only way to regulate that was to send in a complaint and she wasn't going to do that to her neighbors. She felt that it was her dock and she should be able to do with it what she wants.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FLLSTA-18-01)**
7:12 pm

Nogal made a motion, seconded by Schlegel, to recommend approval of FLLSTA-18-01 to the County Commissioners.

**BOARD
DISCUSSION**
7:12 pm

Sirucek said that the Conservation District had jurisdiction over permitting docks in the river and Bigfork Harbor. He explained the standards they used for permitting and processes. He mentioned there was an opportunity to streamline and have the same language in all the waters of Flathead County.

Sirucek also felt that regulating how people tied up their boats did not need to be regulated by the county.

Mussman responded to Sirucek saying the county regulations were pretty consistent with the Conservation District regulations. He also stated that prior the redoing the floodplain regulations, building docks in the river did not require a floodplain permit. Now they require a floodplain permit.

Adams asked for clarification if the regulations were specifically for Flathead Lake or all the lakes in the county. Mussman clarified that it was lakes within the county. He also discussed what was under the county jurisdiction on Whitefish Lake.

**ROLL CALL TO
RECOMMEND
(FLLSTA-18-01)**
7:22 pm

The motion passed unanimously on a roll call vote.

OLD BUSINESS
7:22 pm

Mussman said the zoning text amendments were still making their way through The Commissioners. They had received a lot of comments, and they were going to make the changes, but it had been tabled for further discussion. They also discussed revisiting the consolidation of the AG zones and what process would be best moving forward. Mussman said that he would investigate what other jurisdictions do with their agricultural zones.

Sirucek asked Mussman to look in to the family transfers in the AG zones. He also asked that the county would keep in mind conserving some of the prime agricultural soils. He also expressed concern and dislike for the SAG-5 zones and what they were doing to the county. Mussman said he did not expect immediate changes. Some of the changes needed to wait until they went through and updated the growth policy. He gave examples of how that could work.

Stevens pointed out that all farmers needed to do to protect their land was to put a conservation easement on it or deed restriction that said it could no longer be broken up. They did not need the government regulations to protect the land when they could do that themselves. He did not want to punish those who did not want to use their land for agricultural use.

They discussed further and decided that Mussman will do some research and draw up a plan on how to best address these issues.

NEW BUSINESS

7:42 pm

None

**MEETING
ADJOURNED**

7:42 pm

The meeting was adjourned at approximately 7:42 pm. The next meeting will be held on February 13, 2019.



Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 02/13/2019